

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

AMY SCALES,

Plaintiff,

v.

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:10-cv-267

Chief Judge Dlott
Magistrate Judge Bowman

REPORT AND RECOMMENDATION

The above styled case is before the Court on Defendant's Motion to Reopen Case and for Entry of Judgment. (Doc. 32).

On September 20, 2011, the Court issued an order remanding the case pursuant to the sixth sentence of 42 U.S.C. § 405(g). (Doc. 23). On November 5, 2012, an administrative law judge ("ALJ") acting pursuant to this court's remand order, issued a favorable decision, finding that Plaintiff was disabled within the meaning of the Social Security Act as of August 12, 2009. (Doc. 32, Ex. 1). The time has expired for Plaintiff to file exceptions to the ALJ's decision and for the Appeals Council to review the case on its own motion. See 20 C.F.R. §§ 404.984, 416.1484.

Defendant now requests an Order from this Court affirming the decision of the Commissioner that Plaintiff met the disability requirements under the Social Security Act, 42 U.S.C. §§ 423(d) or 1381a and 1382c, and an entry of Final Judgment pursuant to Federal Rule of Civil Procedure 58, as this Court's previously issued Remand Order and Judgment Entry (Docs. 23, 24) do not constitute a Final Judgment in this case. See *Shalala v. Schaefer*, 509 U.S. 292, 297 (1993) (when a case is remanded under sentence

six, the Court enters judgment after post-remand agency proceedings have been completed and their results filed with the Court).

For good cause shown and in the absence of any opposition by Plaintiff, it is herein **RECOMMENDED** that Defendant's Motion for Entry of Judgment (Doc. 32) should be **GRANTED**. It is further **RECOMMENDED** that the Commissioner's decision on remand should be affirmed and the Clerk of Courts be directed to enter a Final Judgment in the above case.

s/Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

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Dlott, J.
Bowman, M.J.

NOTICE

Pursuant to Fed. R. Civ. P 72(b), any party may serve and file specific, written objections to this Report and Recommendation (“R&R”) within **FOURTEEN (14) DAYS** of the filing date of this R&R. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN (14) DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).